



The Journal OF THE *House of Representatives*

Number 4

Wednesday, March 15, 2006

The House was called to order by the Speaker at 11:15 a.m.

Prayer

The following prayer was offered by Elder Lorenzo Watkins III of Life Deliverance Ministries, upon invitation of Rep. Richardson:

Our Father, which art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done on earth as it is in heaven. Give us this day our daily bread. And forgive our debts, as we forgive our debtors. And lead us not into temptation, but deliver us from evil: for Thine is the kingdom, the power, and the glory forever.

Dear Father, Creator, we thank You for this day. We thank You for our health, we thank You for our life, and we thank You for our strength; for this is the day that You have made, we will rejoice and be glad in it. We thank You now that as we gather that You will guide us as we be about our work for this great state of Florida and its people.

Father, I thank You right now for these public servants. I thank You for their loved ones that are back home. I ask You to be with them, comfort them, Father. Father, right now we pray for the Governor and his family. I pray that You give him peace, give him rest right now, Father.

And Father, I pray for our President, President Bush, his Cabinet, all the federal officials in Washington. And right now, God, I'd like to take this time to pray for our troops, right now, Father, that is over on the seas, foreign land that are fighting, Father. Comfort them, be with them, guide them, and Father, be with their family, their loved ones that are back at home, Father. And be with their children, Father, those that have lost their father or mother.

God, You are a father and You can be a mother. And now Father, we thank You right now, we give You praise. In Jesus' name we pray. Amen.

The following members were recorded present:

Session Vote Sequence: 666

Speaker Bense in the Chair.

Adams	Bendross-Mindingall	Brutus	Cusack
Altman	Bense	Bucher	Davis, D.
Anderson	Benson	Bullard	Davis, M.
Antone	Berfield	Cannon	Dean
Arza	Bilirakis	Carroll	Detert
Ausley	Bogdanoff	Clarke	Domino
Barreiro	Bowen	Coley	Farkas
Baxley	Brandenburg	Cretul	Fields
Bean	Brown	Culp	Flores

Gannon	Jennings	Murzin	Sands
Garcia	Johnson	Needelman	Sansom
Gardiner	Jordan	Negron	Seiler
Gelber	Joyner	Patterson	Simmons
Gibson, A.	Justice	Peterman	Slosberg
Gibson, H.	Kendrick	Pickens	Smith
Glorioso	Kottkamp	Planas	Sobel
Goldstein	Kravitz	Poppell	Sorensen
Goodlette	Kreegel	Porth	Stansel
Gottlieb	Kyle	Proctor	Stargel
Grant	Legg	Quinones	Taylor
Greenstein	Littlefield	Reagan	Traviesa
Grimsley	Llorente	Rice	Troutman
Harrell	Lopez-Cantera	Richardson	Vana
Hasner	Machek	Rivera	Waters
Hays	Mahon	Robaina	Williams
Henriquez	Mayfield	Roberson	Zapata
Holloway	McInvale	Ross	
Homan	Meadows	Russell	
Hukill	Mealor	Ryan	

(A list of excused members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The members, led by the following, pledged allegiance to the Flag: Colin Kliner of Tallahassee at the invitation of Rep. Needelman; Ryan Daniel Leibowitz of Miami Beach at the invitation of Rep. Gelber; Benjamin Moore of Apopka at the invitation of Rep. Brummer; Katelyn Varn of Tallahassee at the invitation of the Speaker; Sarah Williams of Havana at the invitation of the Speaker; and Lynzie Fess of Lake Mary at the invitation of Rep. Patterson.

House Physician

The Speaker introduced Dr. Larry Smith of Gainesville, who served in the Clinic today upon invitation of Rep. Stansel.

Correction of the *Journal*

The *Journal* of March 14 was corrected and approved as corrected.

Reports of Councils and Standing Committees

Reports of the Rules & Calendar Council

The Honorable Allan G. Bense
Speaker, House of Representatives

March 13, 2006

Dear Mr. Speaker:

Your Rules & Calendar Council herewith submits the Special Order for Wednesday, March 15, 2006. Consideration of the House bills on Special Orders shall include the Senate Companion measures on the House Calendar.

I. Consideration of the following bills:

HB 317 CS - Domino, Carroll, & others
Stand-Alone Bars

HB 95 CS - Henriquez
Alcoholic Beverages

HB 201 CS - Poppell
Nonjudicial Sale of Vessels

HB 145 - Brown, Carroll, & others
Apportionment of Damages in Civil Actions

HB 139 - Mahon
Trespass

HB 155 - Ross, Baxley, & others
Vehicle Crashes

HB 41 CS - Dean
Administrative Expunction of Nonjudicial Arrest Records

HB 281 CS - Baxley, Ausley, & others
Specialty License Plates

HB 179 CS - Hays, Davis, M., & others
Road Designations

A quorum was present in person, and a majority of those present agreed to the above Report.

Respectfully submitted,
J. Dudley Goodlette, Chair
Rules & Calendar Council

On motion by Rep. Goodlette, the above report was adopted.

Special Orders

HB 317—A bill to be entitled An act relating to stand-alone bars; amending s. 561.695, F.S.; removing a requirement that licensed vendors file a procedures report regarding compliance with certain food service limitations; providing an effective date.

The Business Regulation Committee recommended the following:

HB 317 CS—A bill to be entitled An act relating to stand-alone bars; amending s. 561.695, F.S.; providing a penalty for a licensed vendor who knowingly makes a false statement on an annual compliance affidavit; removing a requirement that licensed vendors file a procedures report regarding compliance with certain food service limitations; providing an effective date.

—was read the second time by title and, under Rule 10.10(b), referred to the Engrossing Clerk.

HB 95—A bill to be entitled An act relating to alcoholic beverages; creating s. 562.61, F.S.; providing a definition of the term "alcohol vaporizing device"; prohibiting the sale, offer for sale, purchase, or use of machines or devices which vaporize alcohol; providing penalties; providing a fine; creating s. 563.09, F.S.; permitting certain vendors to conduct malt beverage tastings under certain conditions; providing an effective date.

The Criminal Justice Committee recommended the following:

HB 95 CS—A bill to be entitled An act relating to alcoholic beverages; creating s. 562.61, F.S.; providing a definition of the term "alcohol vaporizing device"; prohibiting the sale, offer for sale, purchase, or use of machines or devices which vaporize alcohol; providing penalties; providing a fine; providing an effective date.

—was read the second time by title.

Representative Henriquez offered the following:

(Amendment Bar Code: 863369)

Amendment 1—Remove line 35 and insert:
using an alcohol vaporizing device commits a noncriminal violation with a fine of

Rep. Henriquez moved the adoption of the amendment, which was adopted.

Representative Henriquez offered the following:

(Amendment Bar Code: 630955)

Amendment 2 (with title amendment)—Between lines 36 and 37 insert:
(4) This section does not apply to the administration or prescription of a product that contains alcohol by a health care practitioner who is licensed under the laws of this state or another state.

===== T I T L E A M E N D M E N T =====

Remove line 11 and insert:

that the provisions of the section do not apply to the administration or prescription of a product that contains alcohol by certain licensed health care practitioners; providing an effective date.

Rep. Henriquez moved the adoption of the amendment, which was adopted.

Under Rule 10.10(b), the bill was referred to the Engrossing Clerk.

HB 201—A bill to be entitled An act relating to nonjudicial sale of vessels; amending s. 328.17, F.S.; revising notice requirements of a marina having a possessory lien on a vessel for unpaid costs, charges, or fees prior to nonjudicial sale of the vessel, including expenses for the removal and disposal of certain vessels in a wrecked, junked, or substantially dismantled condition; reducing the time allowed to pay the fees, charges, and costs giving rise to the lien prior to sale of the vessel; revising requirements with respect to perfection of and priority over prior or other liens; providing an effective date.

The State Infrastructure Council recommended the following:

HB 201 CS—A bill to be entitled An act relating to nonjudicial sale of vessels; amending s. 328.17, F.S.; revising notice requirements of a marina having a possessory lien on a vessel for unpaid costs, charges, or fees prior to nonjudicial sale of the vessel, including expenses for the removal and disposal of certain vessels in a wrecked, junked, or substantially dismantled condition; reducing the time allowed to pay the fees, charges, and costs giving rise to the lien prior to sale of the vessel; providing for suspending application for a certain time after a named storm; revising requirements with respect to perfection of and priority over prior or other liens; providing an effective date.

—was read the second time by title.

Representative Poppell offered the following:

(Amendment Bar Code: 022651)

Amendment 1—Remove line 117 and insert:
marina that the owner or lienholder may contact to respond to the notice.

Rep. Poppell moved the adoption of the amendment, which was adopted.

Under Rule 10.10(b), the bill was referred to the Engrossing Clerk.

HB 145—A bill to be entitled An act relating to apportionment of damages in civil actions; amending s. 768.81, F.S.; deleting exceptions to a requirement for liability based on percentage of fault instead of joint and several liability; providing applicability; providing an effective date.

—was read the second time by title.

Representatives Seiler and Joyner offered the following:

(Amendment Bar Code: 675459)

Amendment 1 (with title amendment)—Remove lines 13-74 and insert:

(3) **APPORTIONMENT OF DAMAGES.**—In cases to which this section applies, the trier of fact shall apportion the total fault for the occurrence giving rise to the legal proceeding among the claimant and those parties to the action who may be held legally liable and the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability, except as provided in paragraphs (a), (b), and (c):

(a) Where a plaintiff is found to be at fault, the following shall apply:

1. Any defendant found 10 percent or less at fault shall not be subject to joint and several liability.

2. For any defendant found more than 10 percent but less than 25 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$200,000.

3. For any defendant found at least 25 percent but not more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$500,000.

4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$1 million.

~~For any defendant under subparagraph 2., subparagraph 3., or subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the amount of economic and noneconomic damages already apportioned to that defendant based on that defendant's percentage of fault.~~

(b) Where a plaintiff is found to be without fault, the following shall apply:

1. Any defendant found less than 10 percent at fault shall not be subject to joint and several liability.

2. For any defendant found at least 10 percent but less than 25 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$500,000.

3. For any defendant found at least 25 percent but not more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$1 million.

4. For any defendant found more than 50 percent at fault, joint and several liability shall not apply to that portion of economic damages in excess of \$2 million.

~~For any defendant under subparagraph 2., subparagraph 3., or subparagraph 4., the amount of economic damages calculated under joint and several liability shall be in addition to the amount of economic and noneconomic damages already apportioned to that defendant based on that defendant's percentage of fault.~~

(c) With respect to any defendant whose percentage of fault is less than the fault of a particular plaintiff, the doctrine of joint and several liability shall not apply to any damages imposed against the defendant.

(d) In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to amendment any time before trial in accordance with the Florida Rules of Civil Procedure.

(e) In order to allocate any or all fault to a nonparty and include the named or unnamed nonparty on the verdict form for purposes of apportioning

~~damages, a defendant must prove at trial, by a preponderance of the evidence, the fault of the nonparty in causing the plaintiff's injuries.~~

===== TITLE AMENDMENT =====

Remove lines 3-5 and insert:

actions; amending s. 768.81, F.S.; providing for apportionment of fault; deleting exceptions to a requirement for liability based on percentage of fault instead of joint and several liability; deleting requirements relating to allocation of fault to a nonparty; providing

Rep. Seiler moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 667

Speaker Bense in the Chair.

Yeas—38

Ambler	Fields	Justice	Ryan
Antone	Gannon	Kendrick	Sands
Ausley	Gelber	Kottkamp	Seiler
Bendross-Mindingall	Gibson, A.	Machek	Slosberg
Brandenburg	Gottlieb	Mahon	Smith
Brutus	Greenstein	Meadows	Sobel
Bucher	Henriquez	Needelman	Taylor
Bullard	Holloway	Peterman	Vana
Cusack	Jennings	Richardson	
Farkas	Joyner	Roberson	

Nays—77

Allen	Davis, D.	Johnson	Quinones
Altman	Davis, M.	Jordan	Reagan
Anderson	Dean	Kravitz	Rice
Arza	Detert	Kreegel	Rivera
Attkisson	Domino	Kyle	Robaina
Baxley	Evers	Legg	Ross
Bean	Flores	Littlefield	Rubio
Bense	Garcia	Llorente	Russell
Benson	Gardiner	Lopez-Cantera	Sansom
Bilirakis	Gibson, H.	Mayfield	Simmons
Bogdanoff	Glorioso	McInvale	Sorensen
Bowen	Goldstein	Mealor	Stargel
Brown	Goodlette	Murzin	Traviesa
Brummer	Grant	Negron	Troutman
Cannon	Grimsley	Patterson	Waters
Carroll	Harrell	Pickens	Williams
Clarke	Hasner	Planas	Zapata
Coley	Hays	Poppell	
Cretul	Homan	Porth	
Culp	Hukill	Proctor	

Votes after roll call:

Nays—Stansel

Nays to Yeas—Quinones

Representatives Seiler and Joyner offered the following:

(Amendment Bar Code: 241687)

Amendment 2 (with title amendment)—Between lines 74 and 75 insert:

Section 2. Except for entities to which the provisions of s. 768.28, Florida Statutes, apply, notwithstanding any other provision of law, a person, as defined in s. 1.01, Florida Statutes, is not immune and may not be presumed immune from civil liability for damages arising from the person's negligence. For purposes of this section, the term "negligence" includes wrongful acts or omissions based upon theories of negligence, strict liability, products liability, professional malpractice, whether couched in terms of tort or contract, or breach of warranty and similar theories.

===== TITLE AMENDMENT =====

Remove line 5 and insert:

instead of joint and several liability; specifying absence of immunity from liability for damages for a person's negligence; providing an exception; providing a definition; providing

Rep. Seiler moved the adoption of the amendment. Subsequently, **Amendment 2** was withdrawn.

Representatives Seiler and Joyner offered the following:

(Amendment Bar Code: 571541)

Amendment 3 (with title amendment)—Between lines 74 and 75, insert:

Section 2. Paragraph (a) of subsection (3) of section 766.209, Florida Statutes, is amended to read:

766.209 Effects of failure to offer or accept voluntary binding arbitration.--

(3) If the defendant refuses a claimant's offer of voluntary binding arbitration:

(a) The claim shall proceed to trial, and the claimant, upon proving medical negligence, shall be entitled to recover damages ~~subject to the limitations in s. 766.118~~, prejudgment interest, and reasonable attorney's fees up to 25 percent of the award reduced to present value.

Section 3. Section 766.118, Florida Statutes, is repealed.

===== T I T L E A M E N D M E N T =====

Remove line 5 and insert:

instead of joint and several liability; amending s. 766.209, F.S.; deleting a cross-reference; repealing s. 766.118, F.S., relating to determination of noneconomic damages; providing

Rep. Seiler moved the adoption of the amendment. Subsequently, **Amendment 3** was withdrawn.

Under Rule 10.10(b), the bill was referred to the Engrossing Clerk.

HB 139—A bill to be entitled An act relating to trespass; amending s. 810.011, F.S.; providing that property that is owned or leased by a railroad or railway company does not have to satisfy the definition of "posted land" in order to obtain the benefits of ss. 810.09 and 810.12, F.S., in certain circumstances; reenacting s. 810.09(1)(a), F.S., relating to trespass on property other than structure or conveyance, for the purpose of incorporating the amendment to s. 810.011, F.S., in a reference thereto; providing an effective date.

—was read the second time by title and, under Rule 10.10(b), referred to the Engrossing Clerk.

Motion

On motion by Rep. Goodlette, the rules were waived and the privilege of the floor was granted to Dr. Emilio Ochoa and his wife.

HB 155—A bill to be entitled An act relating to vehicle crashes; creating the "Justin McWilliams 'Justice For Justin' Act"; amending s. 316.027, F.S.; requiring the driver of a vehicle involved in a crash occurring on public or private property that results in injury of a person to immediately stop the vehicle and remain at the scene; providing that failure to stop the vehicle and remain at the scene by the driver of a vehicle involved in a crash occurring on public or private property that results in the death of a person is a first degree felony; providing penalties; amending s. 921.0022, F.S.; revising felony classification in the Criminal Punishment Code offense severity ranking chart for specified violations; providing an effective date.

—was read the second time by title and, under Rule 10.10(b), referred to the Engrossing Clerk.

HB 41—A bill to be entitled An act relating to administrative expunction of nonjudicial arrest records; amending s. 943.0581, F.S.; requiring the

arresting law enforcement agency to apply to the Department of Law Enforcement for the administrative expunction of certain nonjudicial records of arrest; authorizing certain persons to apply directly to the department for administrative expunction in certain circumstances; requiring such persons to support such application with an endorsement; requiring an affidavit; providing that an application, endorsement, or affidavit may not be admitted into evidence or construed as an admission of liability; providing an effective date.

The Justice Council recommended the following:

HB 41 CS—A bill to be entitled An act relating to administrative expunction of nonjudicial arrest records; amending s. 943.0581, F.S.; requiring the arresting law enforcement agency to apply to the Department of Law Enforcement for the administrative expunction of certain nonjudicial records of arrest; authorizing certain persons to apply directly to the department for administrative expunction in certain circumstances; requiring such persons to support such application with an endorsement; requiring an affidavit with specified information; providing that an application, endorsement, or affidavit may not be admitted into evidence or construed as an admission of liability; providing an effective date.

—was read the second time by title and, under Rule 10.10(b), referred to the Engrossing Clerk.

HB 281—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; creating the A State of Vision license plate and establishing its annual use fee; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

The Transportation Committee recommended the following:

HB 281 CS—A bill to be entitled An act relating to specialty license plates; amending s. 320.08056, F.S.; revising the annual use fee for the Florida Sheriffs Youth Ranches license plate; providing annual use fees for certain plates; amending s. 320.08058, F.S.; creating the A State of Vision license plate and the Future Farmers of America license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—was read the second time by title and, under Rule 10.10(b), referred to the Engrossing Clerk.

HB 179—A bill to be entitled An act relating to road designations; designating Leighton Lee Baker Memorial Highway in Lake County; directing the Department of Transportation to erect suitable markers; providing an effective date.

The Transportation & Economic Development Appropriations Committee recommended the following:

HB 179 CS—A bill to be entitled An act relating to road designations; designating Leighton Lee Baker Memorial Highway in Lake County; designating Trinch Boulevard in Broward County; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 824425)

Amendment 1 (with title amendment)—Between lines 31 and 32, insert:

Section 3. John Van Waters Memorial Highway designated; Department of Transportation to erect suitable markers.--

(1) That portion of State Road 35 from County Road 35A north to the Pasco County line in Pasco County is designated as "John Van Waters Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating John Van Waters Memorial Highway as described in subsection (1).

===== T I T L E A M E N D M E N T =====

Remove line 9 and insert:

Trinchi Boulevard in Broward County; designating John Van Waters Memorial Highway in Pasco County; directing the

Rep. Johnson moved the adoption of the amendment, which was adopted.

Representative Rubio offered the following:

(Amendment Bar Code: 159115)

Amendment 2 (with title amendment)—Between lines 31 and 32, insert:

Section 3. Dr. Emilio Ochoa Boulevard designated; Department of Transportation to erect suitable markers.--

(1) That portion of Calle Ocho (S.W. 8th Street) between S.W. 87th Avenue and S.W. 97th Avenue in Miami-Dade County is designated as "Dr. Emilio Ochoa Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating Dr. Emilio Ochoa Boulevard as described in subsection (1).

===== T I T L E A M E N D M E N T =====

Remove line 9 and insert:

Trinchi Boulevard in Broward County; designating Dr. Emilio Ochoa Boulevard in Miami-Dade County; directing the

Rep. Rubio moved the adoption of the amendment, which was adopted. The vote was:

Session Vote Sequence: 668

Speaker Bense in the Chair.

Yeas—119

Adams	Culp	Hukill	Proctor
Allen	Cusack	Jennings	Quinones
Altman	Davis, D.	Johnson	Reagan
Ambler	Davis, M.	Jordan	Rice
Anderson	Dean	Joyner	Richardson
Antone	Detert	Justice	Rivera
Arza	Domino	Kendrick	Robaina
Attkisson	Evers	Kottkamp	Roberson
Ausley	Farkas	Kravitz	Ross
Barreiro	Fields	Kreegel	Rubio
Baxley	Flores	Kyle	Russell
Bean	Gannon	Legg	Ryan
Bendross-Mindingall	Garcia	Littlefield	Sands
Bense	Gardiner	Llorente	Sansom
Benson	Gelber	Lopez-Cantera	Seiler
Berfield	Gibson, A.	Machek	Simmons
Bilirakis	Gibson, H.	Mahon	Slosberg
Bogdanoff	Glorioso	Mayfield	Smith
Bowen	Goldstein	McInvale	Sobel
Brandenburg	Goodlette	Meadows	Sorensen
Brown	Gottlieb	Mealor	Stansel
Brummer	Grant	Murzin	Stargel
Brutus	Greenstein	Needelman	Taylor
Bucher	Grimsley	Negron	Traviesa
Bullard	Harrell	Patterson	Troutman
Cannon	Hasner	Peterman	Vana
Carroll	Hays	Pickens	Waters
Clarke	Henriquez	Planas	Williams
Coley	Holloway	Poppell	Zapata
Cretul	Homan	Porth	

Nays—None

Under Rule 10.10(b), the bill was referred to the Engrossing Clerk.

Motion to Adjourn

Rep. Rubio moved that the House adjourn for the purpose of receiving reports, holding council and committee meetings, and conducting other House business, to reconvene at 10:00 a.m., Thursday, March 16, or upon call of the Chair. The motion was agreed to.

Cosponsors

HB 13—Harrell

HB 15—Zapata

HB 21—Brutus, Meadows

HB 41—Sansom

HB 43—Bucher

HB 55—Sands

HB 65—Fields

HB 69—Hasner

HB 75—Zapata

HB 87—Ryan

HB 95—Needelman

HB 105—Bilirakis, Bullard

HB 137—Zapata

HB 141—Arza

HB 143—Allen

HB 145—Cannon, Clarke, Waters, Williams

HB 201—Seiler

HB 209—Clarke, Hasner

HB 233—Holloway, Joyner

HB 273—Flores

HB 281—Allen, Needelman

HB 317—Needelman

HB 371—Coley, Zapata

HB 373—Zapata

HB 457—Seiler

HB 507—Kendrick

HB 521—Flores

HB 585—Porth

HB 587—Porth

HB 603—Brutus

HB 621—Kreegel

HB 671—Allen

HB 713—Proctor

HB 715—Proctor

HB 813—Henriquez, Holloway, Joyner, Meadows

HB 881—Henriquez

HB 913—Porth

HB 915—Kendrick

HB 1009—Goodlette

HB 1035—Allen

HB 1135—Altman, Lopez-Cantera, Williams

HB 1185—Farkas

HB 1199—Patterson

HB 1209—Bendross-Mindingall, Henriquez, Holloway, Joyner, Machek, Meadows, Smith

HB 1257—Bendross-Mindingall, Henriquez, Joyner, Machek, Meadows, Smith

HB 1323—Sansom

HB 1333—Bilirakis, Bogdanoff, Gottlieb, Meadows, Porth, Seiler, Sobel

HB 1363—Reagan

HB 1389—Barreiro, Bendross-Mindingall, Planas

HB 1401—Joyner

HB 1423—Henriquez, Holloway, Joyner, Meadows

HB 1427—Bucher, Fields, Henriquez, Holloway, Joyner, Machek, Meadows, Smith

HB 1519—Hasner

HB 1525—Holloway, Joyner

HB 7107—Galvano

HCR 8005—Brutus, Gottlieb

Introduction and Reference

By the PreK-12 Committee; Representative Arza—

HB 7119—A bill to be entitled An act relating to student athlete recruiting; requiring the Florida High School Athletic Association to hold certain bylaws in abeyance; providing for creation of a task force to review student athlete recruiting issues; providing for task force membership and duties; requiring recommendations to the Governor and the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to conduct a review of recruiting violations by Florida High School Athletic Association member schools; providing appropriations; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Domestic Security Committee; Representative Adams—

HB 7121—A bill to be entitled An act relating to disaster preparedness response and recovery; creating s. 252.63, F.S.; creating the Florida Disaster

Supplier Program Council under the Department of Community Affairs; requiring the council to make recommendations for a voluntary local program to be established as the Florida Disaster Supplier Program; providing membership and organization of the council; providing duties and responsibilities of the council; authorizing the council to recommend the assessment of an annual program membership fee; providing for certification of program participants; providing requirements with respect to collection and use of program membership fees; requiring the council to submit a report; providing for termination of the council; providing intended purposes of the program; providing that participation in the program shall be at the option of each county; providing for administration of the program by participating counties; creating s. 526.143, F.S.; providing that each motor fuel terminal facility and wholesaler that sells motor fuel in the state must be capable of operating its distribution loading racks using an alternate power source for a specified period by a certain date; providing requirements with respect to the operation of such equipment following a major disaster; providing requirements with respect to inspection of such equipment; requiring newly constructed or substantially renovated motor fuel retail outlets to be capable of operation using an alternate power source; defining "substantially renovated"; providing inspection requirements; requiring certain motor fuel retail outlets located within a specified distance from an interstate highway or state or federally designated evacuation route to be capable of operation using an alternate power source by a specified date; providing inspection and recordkeeping requirements; providing applicability; providing severability; creating s. 526.144, F.S.; creating the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs; providing purpose of the program; providing requirements for participation in the program; providing that participation in the program shall be at the option of each county; providing for administration of the program; providing requirements of businesses certified as State Emergency Response Team members; providing for a credit against motor fuel tax collections to any owner of a retail motor fuel outlet for the purchase and installation of equipment required to meet program certification requirements; providing a limitation; requiring the Department of Revenue to provide forms and procedures for the credit by rule; providing for preemption to the state of the regulation of and requirements for siting and placement of an alternate power source and any related equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets; providing for review of the program; providing a report; amending s. 553.509, F.S., relating to requirements with respect to vertical accessibility under pt. II of ch. 553, F.S., the "Florida Americans With Disabilities Accessibility Implementation Act"; requiring specified existing and newly constructed residential multifamily dwellings to have at least one public elevator that is capable of operating on an alternate power source for emergency purposes; providing requirements with respect to the alternate power source; providing for verification of compliance by specified dates; providing requirements with respect to emergency operations plans and inspection records; requiring any person, firm, or corporation that owns or operates specified multistory affordable residential dwellings to attempt to obtain grant funding to comply with the act; requiring an owner or operator of such a dwelling to develop an evacuation plan in the absence of compliance with the act; providing additional inspection requirements under ch. 399, F.S., the "Elevator Safety Act"; amending s. 252.35, F.S.; expanding the duty of the Division of Emergency Management to conduct a public educational campaign on emergency preparedness issues; providing an additional duty of the division with respect to educational outreach concerning disaster preparedness; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Future of Florida's Families Committee; Representative Galvano—

HB 7123—A bill to be entitled An act relating to child protective services; amending s. 39.01, F.S.; revising definitions relating to child protective services; amending s. 39.0121, F.S.; providing rulemaking authority to the Department of Children and Family Services to provide certain information in a child's case plan to physical custodians and family services counselors under certain circumstances; amending s. 39.013, F.S.; removing provisions

relating to continuances; creating s. 39.0136, F.S.; providing for time limitations and circumstances under which a continuance may be granted in child protective cases; providing exceptions; creating s. 39.0137, F.S.; providing that state laws do not supersede certain federal laws; requiring the Department of Children and Family Services to adopt rules; creating s. 39.0138, F.S.; authorizing the department to conduct criminal records checks of persons being considered as prospective foster parents; providing that a court may review the granting or denial of an exemption from disqualification to care for a dependent child; providing that a person seeking placement of a child who is disqualified bears the burden of providing evidence of rehabilitation; amending s. 39.201, F.S.; requiring that any person who knows or suspects that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care must report this information to the central abuse hotline of the Department of Children and Family Services; amending s. 39.301, F.S.; redefining the term "criminal conduct" to include a child who is known or suspected to be a victim of human trafficking; requiring each child protective investigator to inform the person who is the subject of a child protective investigation that he or she has a duty to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed; providing that the department may rely upon a previous report to indicate that child abuse has occurred; providing that if the child has moved to a different residence or location, a report may be filed with a law enforcement agency under certain circumstances; amending s. 39.303, F.S.; conforming provisions to changes made by the act; amending s. 39.402, F.S.; requiring that a shelter hearing order contain specified information relating to the availability of services to prevent removal from the home; requiring notification of certain parties regarding case plan or family team conferences or mediation; providing a timeframe for the conference or mediation; requiring a parent to provide certain information regarding relatives with whom a child may be placed under certain circumstances; providing circumstances under which parental rights may be terminated and the child's out-of-home placement may become permanent; amending s. 39.507, F.S.; requiring the court to inquire of the parents whether the parents have relatives who might be considered as a placement for the child; directing the court to advise the parents that, if the child is not returned to their custody within 12 months, their parental rights may be terminated and the child's out-of-home placement may become permanent; amending s. 39.5085, F.S.; conforming provisions to changes made by the act; correcting cross- references; amending s. 39.521, F.S.; revising the content of an order of disposition issued by the court; amending s. 39.522, F.S.; requiring the court to consider the continuity of the child's placement in the same out-of-home residence as a factor when determining the best interest of the child in a postdisposition proceeding to modify custody; creating s. 39.6011, F.S.; providing procedures for drafting and implementing a case plan; requiring certain face-to-face meetings; specifying contents of a case plan; requiring the department to prepare a case plan for each child receiving services from the department; requiring all parties, except the child under certain circumstances, to sign the case plan; requiring the case plan to provide certain documentation when the permanency goal for the child is adoption; requiring the department to follow certain procedures; requiring the case plan to be filed with the court and copies to be provided to all parties; requiring certain information to follow a child until permanency is achieved; creating s. 39.6012, F.S.; providing for case plan tasks and services; requiring a parent to complete certain tasks in order to receive certain services; providing for the content of case plans; creating s. 39.6013, F.S.; providing for amendments to a case plan; describing the circumstances under which a case plan may be modified; requiring certain information to be included in amendments to a case plan; requiring copies to be distributed to specified parties; amending s. 39.603, F.S.; requiring that case plans and amendments be approved by the court and that copies of the amended plan be provided to certain parties; amending s. 39.621, F.S.; providing a legislative finding; requiring a permanency hearing to be held within a specified timeframe; specifying permanency goals; providing prehearing procedures; directing the court to make certain findings at the permanency hearing; requiring certain factors to be considered by the court in determining the permanency goal for the child; permitting parents to make

a motion for reunification or increased contact under certain circumstances; creating s. 39.6221, F.S.; providing for the permanent guardianship for a dependent child; authorizing the court to consider a permanent guardian as a long-term option for a dependent child; requiring a written order; providing for the contents of the permanent guardianship order; exempting the permanent guardianship of a child from the requirements of ch. 744, F.S., under certain circumstances; providing for the court to retain jurisdiction; providing that placement in permanent guardianship does not terminate the relationship between the parent and the child; creating s. 39.6231, F.S.; providing circumstances for placement of a child with a fit and willing relative; requiring the court to specify the reasons to place a child with a relative; requiring the court to establish the relative's authority to care for the child; providing for the department to supervise the placement for a specified time period; requiring the court to continue to conduct permanency hearings; creating s. 39.6241, F.S.; authorizing the court to place a child in another planned permanent living arrangement under certain circumstances; requiring the department and guardian ad litem to provide the court with certain information regarding the needs of the child; amending s. 39.701, F.S.; requiring that a child's current health, mental health, and education records be included in the documentation for the judicial review report; authorizing the court and citizen review panel to make certain determinations; providing for amendments to a case plan; removing a provision relating to the extension of a time limitation or the modification of terms of a case plan; requiring the court to conduct a judicial review 6 months after the child is placed in shelter care; amending s. 39.703, F.S.; providing when the department may file a petition for termination of parental rights; providing circumstances under which the department may choose not to file a petition; providing for court review of a determination by the department not to file a petition; amending s. 39.806, F.S.; authorizing a material breach of the case plan as a ground to terminate parental rights; requiring that the department show, and the court find, the material breach by clear and convincing evidence; amending s. 39.810, F.S.; providing certain factors for the court to consider for the best interest of the child; amending ss. 39.811 and 409.165, F.S.; conforming provisions to changes made by the act; amending ss. 39.0015, 39.205, 39.302, 39.828, 63.092, and 419.001, F.S.; correcting cross-references; reenacting s. 39.802(5), F.S., relating to the filing of a petition to terminate parental rights, to incorporate the amendments made to s. 39.806, F.S., in a reference thereto; repealing ss. 39.601, 39.622, 39.623, 39.624, and 435.045, F.S., relating to case plan requirements, long-term custody of a dependent child, long-term licensed custody of a dependent child, independent living, and background screening of certain persons before a dependent child is placed in their home; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Health Care Regulation Committee; Representative Garcia—

HB 7125—A bill to be entitled An act relating to medical records; amending s. 456.057, F.S.; providing definitions; requiring a health care practitioner's employer who is a records owner and a records custodian to comply with specified requirements for confidentiality and disclosure; amending s. 456.42, F.S.; providing requirements for prescriptions of medicinal drugs by health care practitioners that are electronically generated and transmitted; creating s. 456.43, F.S.; regulating electronic prescribing for medicinal drugs; providing restrictions for electronic prescribing software; providing definitions; authorizing electronic prescribing software to show information regarding a payor's formulary under certain circumstances; amending s. 465.025, F.S.; specifying requirements for a prescriber to prevent generic substitution for brand name drugs when a prescription is electronically transmitted and generated; amending s. 381.028, F.S.; correcting a cross-reference; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Military & Veteran Affairs Committee; Representative Jordan—

HB 7127—A bill to be entitled An act relating to the disturbance of assemblies; amending s. 871.01, F.S.; providing a penalty for willfully

interrupting or disturbing an assembly of people met for the purpose of acknowledging the death of an individual with a military funeral honors detail; reenacting s. 871.02, F.S., relating to indictments or informations for disturbing assembly, for the purpose of incorporating the amendment to s. 871.01, F.S., in a reference thereto; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Waters—

HR 9029—A resolution designating March 16, 2006, as "Space Day" in Florida.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

Reference

HB 1127—Referred to the Local Government Council.

HB 1245—Referred to the Local Government Council and Fiscal Council.

HB 1253—Referred to the Local Government Council and Fiscal Council.

House Resolutions Adopted by Publication

At the request of Rep. D. Davis—

HR 9007—A resolution designating the week of November 12-18, 2006, as "Florida Storytelling Week."

WHEREAS, the art of storytelling is a valuable method of sharing Florida folklore and contributes to the preservation of the history of our state, and

WHEREAS, the art of storytelling embraces the heritage and oral tradition of diverse cultures within our state, enabling all Floridians to celebrate the strength of community in the richness of diversity, and

WHEREAS, the art of storytelling promotes literacy and character development among the youth of our state while encouraging mastery of language arts and knowledge of the history and folklore of Florida as students learn, tell, and listen to stories in school or community settings, and

WHEREAS, the art of storytelling fosters communication, tolerance, and understanding among Florida citizens of every age and background, and

WHEREAS, the Florida Storytelling Association, Inc., consisting of numerous storytellers in all regions of the state, serves to preserve, perpetuate, and promote the art of storytelling in Florida by educating storytellers and encouraging the art of storytelling, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives commends the Florida Storytelling Association, Inc., and designates the week of November 12-18, 2006, as "Florida Storytelling Week."

—was read and adopted by publication pursuant to Rule 10.16.

At the request of Rep. Adams—

HR 9015—A resolution designating September 11, 2006, as "Heroes' Day" in Florida.

WHEREAS, grateful students of Longwood Elementary School recently drafted for presentation by the Longwood City Commission a proclamation, portions of which read as follows:

"Whereas, Firefighters, Police Officers, Military Personnel, and Emergency Medical Services work 24 hours a day, seven days a week putting their lives in jeopardy helping others; and

"Whereas, Firefighters should be honored because they choose to assist people and save lives from billowing fires. They are responsible for braving

fires risking their lives for others. They risk their lives to save buildings or homes that are being destroyed by fire. They extinguish about 200 blazing fires a year. They are dedicated to helping people around the world when in danger; and

"Whereas, Police Officers should be honored because they protect our community by safeguarding our homes and saving lives by putting lawbreakers in jail. Police Officers protect us from car accidents, drunk drivers, child abductors, criminals, and drug offenders. Police Officers must work holidays away from their family to guard citizens in Longwood. They are willing to take away from their families to protect others by working through the night to prevent criminal acts; and

"Whereas, Emergency Medical Service Personnel should be honored for providing care for those who experience illness or injury. They arrive at the scene of an accident in a rapid manner to assist those who are injured. They are willing to risk their lives traveling at high speeds to reach the destination; and

"Whereas, on September 11, 2001, Firefighters, Police Officers, and EMS Personnel showed additional bravery and courage. On September 11, 2001, they put out the flaring fires on the towering buildings. They were called to protect us, not knowing if they would live or die. Each person showed great heroism by working at the crisis zone for many days searching for survivors. Hundreds of firefighters and police officers died trying to save our citizens lives. Military personnel have gone to war to fight against terrorism, some giving up their lives," and

WHEREAS, it is with great pride that the Members of the House of Representatives embrace the sentiments of this exemplary group of Florida's students, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives commends the efforts of the students of Longwood Elementary School to honor the heroes of this state and nation and, therefore, in solidarity with those remarkably appreciative students enthusiastically designates September 11, 2006, as "Heroes' Day" in Florida.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to the principal of Longwood Elementary School as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.16.

At the request of Rep. Kreegel—

HR 9017—A resolution designating March 15, 2006, as "Emergency Medicine Day" in Florida.

WHEREAS, Florida's emergency physicians and emergency medical staff provide necessary, life-saving care to the state's residents and visitors at any time of the day or night, often under the most stressful conditions and in extremely difficult situations, and

WHEREAS, in addition, emergency physicians and supporting emergency medical personnel have been instrumental in educating the general public, government officials, and other professionals in the areas of safety, injury prevention, first-aid procedures, cardiopulmonary resuscitation, organ donation, the ravages of substance abuse, and other health-related matters, and

WHEREAS, rapid strides in emergency medical care have been made in recent years, and Florida emergency physicians and personnel themselves receive extensive training and continuing education in order to provide the public with the highest-quality emergency medical care, and

WHEREAS, emergency physicians and personnel contribute to the planning and provision of emergency preparedness and disaster response—in particular, preparedness for and response to incidents dealing with weapons of mass destruction, and

WHEREAS, the dedicated men and women in Florida who devote themselves to rendering prompt, skilled emergency medical care to all who need it are worthy of the state's heartfelt respect and honor, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives, on its behalf and on behalf of all the residents of Florida, extends heartfelt gratitude to the state's emergency medical care providers and in their honor proudly designates March 15, 2006, as "Emergency Medicine Day" in Florida.

—was read and adopted by publication pursuant to Rule 10.16.

At the request of Rep. Ambler—

HR 9023—A resolution congratulating the Citrus Park Little League Senior Girls Softball Team, 2005 World Series Champions.

WHEREAS, the path that would lead the Citrus Park Little League Senior Girls Softball Team to its World Championship title began in Clearwater, Florida, when the team ended its 2002 season as runner-up in the state championship tournament, and

WHEREAS, spurred by the realization that victory had been just beyond their grasp, the team members redoubled their efforts and for the next 2 years earned recognition as the top Little League Senior Girls League Softball team in Florida and, during those same 2 years, as Southern Region Runner-up, and

WHEREAS, not content to rest on their laurels, in 2005 the hardworking members of the Citrus Park team took the State Championship title for the third consecutive season and went on to win the Regional Championship game to qualify for a chance at the World Series semifinals, and

WHEREAS, the team and coaches truly experienced the first fruits of their hard work and unrelenting determination when the Citrus Park team advanced to the World Series Championship game against the series titleholder, Puerto Rico, and

WHEREAS, on August 13, 2005, after a grueling battle between two superb Little League Senior Girls Softball teams, the Citrus Park team saw the fulfillment of a 3-year dream when the team defeated Puerto Rico 1-0 to walk away with the title of 2005 World Champions, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives offers this public commendation of the Citrus Park Little League Senior Girls Softball Team, winner of the 2005 World Series Championship title in its league; recognizes the outstanding accomplishments of the players in attaining the pinnacle of success in their sport; applauds this example of the greatness that can be achieved through the power of a team spirit fired by the exceptional dedication, determination, and unwavering effort exhibited by the team members in reaching their remarkable goal; and congratulates each member of the team for the distinction she has brought to herself, her community, and the State of Florida.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to each member and coach of that 2005 World Series Championship team as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.16.

Reports of Councils and Standing Committees

Received March 14:

The State Infrastructure Council reported the following favorably:
HB 267

The above bill was placed on the Calendar of the House.

The State Infrastructure Council reported the following favorably:
HB 385

The above bill was placed on the Calendar of the House.

The Transportation Committee reported the following favorably:
HB 7035

The above bill was transmitted to the next council or committee of reference, the State Administration Council.

Received March 15:

The Judiciary Committee reported the following favorably:
HJR 33 with committee substitute

The above bill was transmitted to the next council or committee of reference, the Local Government Council, subject to review under Rule 6.3.

The Education Council reported the following favorably:
HB 75

The above bill was placed on the Calendar of the House.

The Education Council reported the following favorably:
HB 205

The above bill was placed on the Calendar of the House.

The Local Government Council reported the following favorably:
HB 251

The above bill was transmitted to the next council or committee of reference, the Education Appropriations Committee.

The Domestic Security Committee reported the following favorably:
HB 285

The above bill was transmitted to the next council or committee of reference, the Judiciary Committee.

The Education Council reported the following favorably:
HB 429

The above bill was placed on the Calendar of the House.

The Criminal Justice Committee reported the following favorably:
HB 827

The above bill was transmitted to the next council or committee of reference, the Criminal Justice Appropriations Committee.

The Criminal Justice Committee reported the following favorably:
HB 981

The above bill was transmitted to the next council or committee of reference, the Criminal Justice Appropriations Committee.

The Criminal Justice Committee reported the following favorably:
HB 1029

The above bill was transmitted to the next council or committee of reference, the Environmental Regulation Committee.

The Civil Justice Committee reported the following favorably:
HB 1141

The above bill was transmitted to the next council or committee of reference, the Economic Development, Trade & Banking Committee.

The Criminal Justice Committee reported the following favorably:
HB 1169

The above bill was transmitted to the next council or committee of reference, the Criminal Justice Appropriations Committee.

The Criminal Justice Committee reported the following favorably:
HB 1239

The above bill was transmitted to the next council or committee of reference, the Future of Florida's Families Committee.

The Domestic Security Committee reported the following favorably:

HB 7023

The above bill was transmitted to the next council or committee of reference, the State Administration Council.

The Domestic Security Committee reported the following favorably:
HB 7025

The above bill was transmitted to the next council or committee of reference, the State Administration Council.

The Domestic Security Committee reported the following favorably:
HB 7033

The above bill was transmitted to the next council or committee of reference, the State Administration Council.

The Education Council reported the following favorably:
HB 7041

The above bill was placed on the Calendar of the House.

The Elder & Long-Term Care Committee reported the following favorably:
HB 7043

The above bill was transmitted to the next council or committee of reference, the State Administration Council.

The Health Care Regulation Committee reported the following favorably:
HB 7045

The above bill was transmitted to the next council or committee of reference, the State Administration Council.

Rules & Calendar Council Report Attachment

Attachment to the Rules & Calendar Council report as adopted on Tuesday, March 7, 2006 (as previously shown in the *Journal* on page 9, March 7):

Recommended Amendments to House Rules 16.4, 16.5, 16.6

16.4—Lobbyists; Requests for Advisory Opinions

(a) OBLIGATIONS OF A LOBBYIST

(1) A lobbyist shall supply facts, information, and opinions of principals to legislators from the point of view that the lobbyist openly declares. A lobbyist shall not offer or propose anything that may reasonably be construed to improperly influence the official act, decision, or vote of a legislator; nor shall a lobbyist attempt to improperly influence the selection of officers or employees of the House. A lobbyist, by personal example and admonition to colleagues, shall maintain the honor of the legislative process by the integrity of the lobbyist's relationship with legislators as well as with the principals whom the lobbyist represents.

(2) A lobbyist shall not knowingly and willfully falsify, conceal, or cover up, by any trick, scheme, or device, a material fact or make any false, fictitious, or fraudulent statement or representation, or make or use any writing or document knowing the same to contain any false, fictitious, or fraudulent statements or entry.

(3) During a regular session, or any extended or special session, a lobbyist may not contribute to a member's campaign or to any organization that is registered or is required to be registered with the Rules & Calendar Council under Rule 15.3.

(4) A lobbyist may not make any expenditure prohibited by s. 11.045(4)(a), Florida Statutes, as amended by ch. 2005-359 Laws of Florida.

(5) No registered lobbyist shall be permitted upon the floor of the House while it is in session.

(b) ADVISORY OPINIONS; COMPILATION THEREOF. A lobbyist when in doubt about the applicability and interpretation of subsection (a) in a particular context, ~~shall submit in writing the facts an advisory opinion to the Speaker, who, or any person when in doubt about the applicability and interpretation of s. 11.045, s. 112.3148, or s. 112.3149, Florida Statutes, as such statute(s) may apply to that person, may request an advisory opinion under this subsection (b). Such request shall be in writing, addressed to the Speaker and shall contain the relevant facts. The Speaker shall either refer the issue to the House general counsel for review and drafting of an advisory opinion of the Speaker or refer the issue to a committee designated by the Speaker to have responsibility for the ethical conduct of lobbyists and the person requesting the advisory opinion may appear in person before such committee. The Speaker House general counsel or this committee shall render advisory opinions to any lobbyistthe person who seeks advice as to whether the facts in a particular case as described in the request and any supplemental communication would constitute a violation of such rule or statute by a lobbyistthat person.~~ Such opinion, until amended or revoked, shall be binding upon the House in any proceeding upon a subsequent complaint concerning the personlobbyist who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for advisory opinion. Upon request of the person who requested the ~~advisory opinion the lobbyist~~ or any member, the committee designated by the Speaker to have responsibility for the ethical conduct of lobbyists may revise any advisory opinion issued by the SpeakerHouse general counsel or may revise any advisory opinion issued by the general counsel of the Office of Legislative Services under Joint Rule 1.8 +7. The House general counsel or committee shall make sufficient deletions to prevent disclosing the identity of persons in the decisions or opinions. All advisory opinions of the ~~SpeakerHouse general counsel~~ or this committee shall be numbered, dated, and published in an annual publication of the House. The Clerk shall keep a compilation of all advisory opinions ~~of the House general counsel or committee designated by the Speaker to have responsibility for the ethical conduct of lobbyists.~~

16.5—Complaints of Violations Relating to Lobbyists and Other Persons; Procedure

(a) FILING OF COMPLAINTS. The Chair of the Rules & Calendar Council shall receive and initially review ~~allegations of any complaint alleging~~ violations of the Rules of the House, Joint Rule ~~One+~~, or violations of a law, rule, or other standard of conduct by a lobbyist or lobbying firm. In addition, the Chair shall receive and initially review any complaint alleging violations of s. 11.045, s. 112.3148, or s. 112.3149, Florida Statutes, by any person other than a member.

~~(1) Review of Complaints. The Chair of the Rules & Calendar Council shall review each complaint submitted to the subcommittee relating to the conduct of a lobbyist.~~

~~(2) Complaints~~

a. A complaint shall be in writing and under oath, setting forth in simple, concise statements the following:

1. The name and legal address of the party filing the complaint (complainant);

2. The name and address of the person or lobbying firm~~lobbyist~~ (respondent) alleged to be in violation of the Rules of the House, Joint Rule ~~One+~~, or an applicable law, rule, or other standard of conduct;

3. The nature of the alleged violation based upon the personal knowledge of the complainant, including, if possible, the specific section of the Rules of the House, Joint Rule ~~One+~~, or law, rule, or other standard of conduct alleged to have been violated; and

4. The facts alleged to give rise to the violation.

b. All documents in the possession of the complainant that are relevant to, and in support of, the allegations shall be attached to the complaint.

c. Each complaint shall be filed with the Speaker or the Rules & Calendar Council. Any complaint filed with the Speaker shall be forwarded to the Rules & Calendar Council at the reasonable convenience of the Speaker.

~~(23) Processing Complaint and Preliminary Findings~~

a. Upon the receipt ~~file~~ of a complaint, ~~the Rules & Calendar Council staff shall note the date of receipt, and the Chair shall, within 5 working days, notify the person~~ lobbyist against whom the complaint has been filed and give such person a copy of the complaint. For purposes of this rule and rule 16.6, a complaint against a lobbying firm shall be treated as a complaint against each lobbyist who is a partner, owner, officer, or employee of the lobbying firm. For purposes of this rule and rule 16.6, the term "person" includes any principal regardless of the organizational form of the principal. Within 20 days, the Chair shall take the necessary actions as provided in subparagraphs b.-g. If, however, the complaint alleges a violation by an employee, a copy of the complaint shall be forwarded to the Speaker for disposition consistent with Rule 2.6 as to that employee.

b. The Chair shall examine each complaint for jurisdiction and for compliance with paragraph (a)(21).

c. If the Chair determines that a complaint does not comply with such rule, the complaint shall be returned to the complainant with a general statement that the complaint is not in compliance with such rule and with a copy of the rule. A complainant may resubmit a complaint, provided such complaint is resubmitted prior to the expiration of the time limitation set forth in subsection (m).

d. If the Chair determines that the verified complaint does not allege facts sufficient to constitute a violation of any of the provisions of the Rules of the House, Joint Rule One, or a law, rule, or other standard of conduct, the Chair shall dismiss the complaint and notify the complainant and the respondent of such action.

e. If the Chair determines that the complaint is outside the jurisdiction of the House, the Chair shall dismiss the complaint and notify the complainant and the respondent of such action.

f. If the Chair determines that a violation is inadvertent, technical, or otherwise of a *de minimis* nature, the Chair may attempt to correct or prevent such a violation by informal means.

g. If the Chair determines that such a complaint does allege facts sufficient to constitute a violation of any of the provisions of the Rules of the House, Joint Rule One, or a law, rule, or other standard of conduct, and that the complaint is not *de minimis* in nature, the Chair shall transmit a copy of the complaint to the Speaker and, in writing, request the appointment of a Probable Cause Panel or Special Master regarding the complaint. A copy of the letter shall be provided to the complainant and the respondent.

(34) Withdrawal of Complaints. A complaint may be withdrawn at any time.

(b) PROBABLE CAUSE PANEL OR SPECIAL MASTER

(1) Creation. Whenever the Speaker receives a copy of a complaint and a request for appointment made pursuant to subsection (a), and whenever the Speaker receives audit information indicating a possible violation of s. 11.045, Florida Statutes, other than a late-filed report, by a lobbying firm (which shall be treated as the respondent for purposes of this rule), the Speaker shall, within 20 days, either appoint a Probable Cause Panel (the panel) consisting of an odd number of members or appoint a Special Master. If the Speaker appoints a Probable Cause Panel, the Speaker shall also appoint one member of the panel as its Chair. The Speaker may appoint up to two additional persons who are not members of the House to serve as nonvoting, public members of a Probable Cause Panel.

(2) Powers and Duties. The members of the panel or the Special Master shall have the following powers and duties:

a. Investigate complaints and possible violations indicated by audits (which shall be treated as complaints) and make appropriate findings of fact promptly regarding allegations of improper conduct sufficient to establish probable cause of violation of the Rules of the House, Joint Rule One, or a law, rule, or other standard of conduct;

b. Based upon the investigation by the Special Master or the panel, make and report findings of probable cause to the Speaker and to the House as it relates to the complaint that occasioned the appointment of the Probable Cause Panel or the Special Master;

c. Recommend to the Rules & Calendar Council such additional rules or regulations as the Probable Cause Panel or the Special Master shall determine are necessary or desirable to ensure proper standards of conduct by lobbyists

or others regulated by s. 11.045, s. 112.3148, or s. 112.3149, Florida Statutes; and

d. Adopt rules of procedure as appropriate to its needs.

(3) Quorum. A quorum of a Probable Cause Panel, when appointed, shall consist of a majority of the members of the panel. All action by a Probable Cause Panel shall require the concurrence of a majority of the full panel.

(4) Term. A Probable Cause Panel or Special Master, as appropriate, shall serve until the complaint that occasioned the appointment of the panel or the Special Master has been dismissed or until a finding of probable cause has been transmitted to the Speaker.

(c) PRELIMINARY INVESTIGATION AND PROBABLE CAUSE FINDING

(1) Preliminary Investigation

a. The Probable Cause Panel or the Special Master shall provide the respondent an opportunity to present to the panel, Special Master, or staff of the panel, orally or in writing, a statement addressing the allegations.

b. The panel, Special Master, or staff of the panel may interview witnesses and examine documents and other evidentiary matters.

c. The panel or Special Master may order the testimony of witnesses to be taken under oath, in which event the oath may be administered by the Chair or any other member of the panel, by the Special Master, or by any person authorized by law to administer oaths.

d. The panel or Special Master may require, by subpoena issued pursuant to these rules or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry.

(2) Probable Cause Finding

a. The panel, by a recorded vote of a majority of the full panel, or the Special Master, as appropriate, shall determine whether there is probable cause to conclude that a violation within the jurisdiction of the panel or the Special Master has occurred.

b. If the panel or Special Master, as appropriate, finds that probable cause does not exist, the panel or Special Master shall dismiss the complaint and notify the complainant and the respondent of its determination.

c. If the panel or Special Master, as appropriate, determines that probable cause exists to believe that a violation occurred but that the violation, if proven, is of a *de minimis* nature or is not sufficiently serious to justify the imposition of a penalty pursuant to Rule 16.6, the panel or Special Master may recommend an appropriate, lesser penalty or may resolve the complaint informally. If the respondent agrees, a summary of the panel's or Special Master's conclusions, as appropriate, shall be published in the House *Journal* and the penalty agreed upon shall be imposed. If the panel or Special Master is unable to satisfactorily settle the complaint, the complaint shall be subject to a full evidentiary hearing before ~~the a~~ Select Committee appointed on Lobbyist Conduct pursuant to subsection (d).

d. If the panel or Special Master determines that probable cause exists to believe that a violation occurred and that, if proven, would be sufficiently serious to justify imposition of a penalty pursuant to Rule 16.6, the panel or Special Master shall cause to be transmitted to the respondent a Statement of Alleged Violation. The statement shall be divided into counts, and each count shall be related to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation, including a reference to the provision of the Rules of the House, Joint Rule One, or law, rule, or other standard of conduct alleged to have been violated. A copy of the statement shall also be transmitted to the Speaker.

(d) HEARING

(1) Select Committee ~~on Lobbyist Conduct~~. Upon receipt by the Speaker of a Statement of Alleged Violation, the Speaker shall appoint, within 20 days, a Select Committee ~~on Lobbyist Conduct~~ (the select committee) to hold hearings regarding the statement and make a recommendation for disciplinary action to the full House.

(2) Hearing. A hearing regarding a violation charged in a Statement of Alleged Violation shall be held promptly to receive evidence upon which to base findings of fact and recommendations, if any, to the House respecting such violation. The hearing before the select committee shall be subject to Rule 7.14.

a. Chair. The Chair of the select committee or other member presiding at a hearing shall rule upon any question of admissibility of testimony or evidence presented to the select committee. Rulings shall be final unless reversed or modified by a majority vote of the members of the select committee. If the select committee appoints a referee pursuant to subsection (i), the referee shall make all evidentiary rulings.

b. Referee. The select committee shall serve as referee for all proceedings under these rules, unless the select committee retains an independent referee pursuant to subsection (i).

c. Prosecutor. The select committee's staff shall serve as prosecutor in all proceedings conducted under these rules, unless the select committee retains independent counsel pursuant to subsection (j).

d. Respondent's Rights. The respondent shall have the right to be represented by legal counsel, to call witnesses, to introduce exhibits, and to cross-examine opposing witnesses. The respondent or respondent's counsel shall be permitted to take the deposition of the complainant in accordance with sub-subparagraph (3)a.3.

e. Complainant's Rights. The complainant is not a party to any part of the complaint process or these proceedings. The complainant has no standing to challenge these rules or procedures and has no right to appeal. The complainant may submit a list of witnesses or questions for the select committee's consideration to assist in its preparation for the hearing.

(3) Procedures

a. Procedure and Evidence

1. Procedure. The select committee may adopt rules of procedure as appropriate to its needs.

2. Evidence. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. However, hearsay evidence may not be used unless same would be admissible under the *Florida Rules of Evidence* and it shall not be sufficient in itself to support a factual finding unless it would be admissible over objection in civil actions.

3. Discovery. Discovery may be permitted upon motion, which shall state the reason therefor. Discovery shall be in accordance with the *Florida Rules of Civil Procedure*, but may be limited in time, scope, and method by the Chair or the referee.

4. Testimony. The select committee shall order the testimony of witnesses to be taken under oath, in which event the oath may be administered by the Chair or a member of the select committee, by any referee appointed pursuant to subsection (i), or by any person authorized by law to administer oaths.

5. Subpoenas. The select committee may require, by subpoena issued pursuant to these rules or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry.

b. Order of Hearing. The order of the full hearing before the select committee or the referee shall be as follows:

1. The Chair or the referee shall open the hearing by stating the select committee's authority to conduct the hearing, the purpose of the hearing, and its scope.

2. Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order, whenever possible: witnesses and other evidence offered by the select committee's staff or the independent counsel, witnesses and other evidence offered by the respondent, and rebuttal witnesses. The select committee may call witnesses at any time during the proceedings.

3. Witnesses at the hearing shall be examined first by the select committee's staff or the independent counsel. The respondent or the respondent's counsel may then cross-examine the witnesses. The members of the select committee may then question the witnesses. Redirect and recross may be permitted in the Chair's or the referee's discretion. With respect to witnesses offered by the respondent, a witness shall be examined first by the respondent or the respondent's counsel, and then may be cross-examined by the select committee's staff or the independent counsel. Members of the select committee may then question the witness. Redirect and recross may be

permitted in the Chair's or the referee's discretion. Participation by the select committee at the hearing stage is at the sole discretion of the select committee and is not mandatory.

(4) Burden of Proof. At the hearing, the burden of proof rests on the select committee's staff or the appointed independent counsel to establish the facts alleged by clear and convincing evidence with respect to each count.

(e) COMMITTEE RECOMMENDED ORDER

(1) Committee Deliberations. As soon as practicable, the select committee shall consider each count contained in a Statement of Alleged Violation. A count shall not be proven unless at least a majority of the select committee votes for a motion that the count has been proven. A count that is not proved shall be considered as dismissed by the select committee.

(2) Dismissal of Complaint. After the hearing, the select committee shall, in writing, state its findings of fact. If the select committee finds that the respondent has not violated any of the provisions of the Rules of the House, Joint Rule One+, or a law, rule, or other standard of conduct, it shall order the action dismissed and shall notify the respondent and the complainant of such action.

(3) Recommended Order

a. Recommended Order. If the select committee finds that the respondent has violated any of the provisions of the Rules of the House, Joint Rule One+, or a law, rule, or other standard of conduct, it shall, in writing, state its findings of fact and submit a report to the House. A copy of the report shall be sent to the respondent and the complainant and shall be published in the *House Journal*.

b. Penalty. With respect to any violation with which a person-lobbyist is charged in a count that the select committee has voted as proved, the select committee may recommend to the House that the person-lobbyist be censured, reprimanded, or prohibited from lobbying for all or any part of the legislative biennium during which the violation occurred, or such other penalty as may be appropriate.

(f) PROPOSED RECOMMENDED ORDER

(1) Referee. When a hearing is conducted by referee, as provided in subsection (i), the referee shall prepare a proposed recommended order and file it, together with the record of the hearing, with the select committee. Copies of the proposed recommended order shall be served on all parties.

(2) Proposed Recommended Order. The proposed recommended order shall contain the time and place of the hearing, appearances entered at the hearing, issues, and proposed findings of fact and conclusions of law.

(3) Exceptions. The respondent and the independent counsel may file written exceptions with the select committee in response to a referee's recommended order. Exceptions shall be filed within 20 days after service of the recommended order unless such time is extended by the referee or the Chair of the select committee.

(4) Recommended Order. The select committee shall deliberate and render a recommended order pursuant to the provisions of subsection (e).

(g) CONSENT DECREE. At any stage of the proceedings, the respondent and the select committee may agree to a consent decree. The consent decree shall state findings of fact and shall be published in the *House Journal*. The consent decree shall contain such penalty as may be appropriate. If the House accepts the consent decree, the complaint pursuant to these proceedings shall be resolved. If the House does not accept the consent decree, the proceedings before the select committee shall resume.

(h) CONFIDENTIALITY. Any material provided to the House in response to a complaint filed under this rule that is confidential under applicable law shall remain confidential and shall not be disclosed except as authorized by applicable law. Except as otherwise provided in this section, a complaint and the records relating to a complaint shall be available for public inspection upon the dismissal of a complaint by the Chair of the Rules & Calendar Council, a determination as to probable cause or informal resolution of a complaint by a Special Master or Probable Cause Panel, or the receipt by the Speaker of a request in writing from the respondent that the complaint and other records relating to the complaint be made public records.

(i) REFEREE. The Select Committee ~~on Lobbyist Conduct~~ may, in its discretion and with the approval of the Speaker, employ a referee to preside over the proceedings, to hear testimony, and to make findings of fact and

recommendations to the select committee concerning the disposition of complaints.

(j) ~~INDEPENDENT COUNSEL.~~ The Select Committee ~~on Lobbyist Conduct~~ is authorized to retain and compensate counsel not regularly employed by the House, as authorized by the Speaker.

(k) **ELIGIBILITY; SPEAKER OF THE HOUSE.** If any allegation under this rule involves the conduct or activities of the Speaker, the duties of the Speaker pursuant to this rule shall be transferred to the Speaker pro tempore.

(l) **EX PARTE COMMUNICATIONS**

(1) A Special Master or a member of a Probable Cause Panel or of a Select Committee ~~on Lobbyist Conduct~~ shall not initiate or consider any *ex parte* communication relative to the merits of a pending complaint proceeding by:

a. Any person engaged in prosecution or advocacy in connection with the matter; or

b. A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the action of the panel, Special Master or select committee, or authorized representatives or counsel thereof.

(2) Except when acting in official capacity as a Special Master or as a member of a panel or select committee, a Special Master or a member of a Probable Cause Panel or of a Select Committee ~~on Lobbyist Conduct~~ shall not comment upon or discuss with any other person the matters that occasioned the appointment of the Special Master, panel, or select committee during the pendency of proceedings held pursuant to this rule before the Special Master, panel, or select committee. This section shall not apply to communications initiated or considered by the Special Master or the Chair of the panel or select committee relating to a settlement pursuant to subparagraph (c)(2)c. or to a consent decree authorized pursuant to subsection (g).

(m) **TIME LIMITATIONS**

(1) ~~On or after the effective date of these rules, a~~ All sworn complaints alleging violation of the Rules of the House, Joint Rule ~~One~~⁴, or any law, rule, or other standard of conduct by a person~~lobbyist~~ subject to the provisions of this Part shall be filed with the Rules & Calendar Council or the Speaker within 2 years after the alleged violation; provided that the Speaker may address conduct of an employee at any time.

(2) A violation of the Rules of the House is committed when every element necessary to establish the violation of the rule has occurred, and time starts to run on the day after the violation occurred.

(3) The applicable period of limitation is tolled on the day a sworn complaint against the person~~lobbyist~~ is filed with the Rules & Calendar Council. If it can be concluded from the face of the complaint that the applicable period of limitation has run, the allegations shall not be considered a complaint for the purpose of requiring action by the Chair of the Rules & Calendar Council. The complaint and all material related thereto shall remain confidential.

16.6—Penalties for Violations

Separately from any prosecutions or penalties otherwise provided by law, any person determined to have violated the foregoing requirements of these rules, any provision in Joint Rule ~~One~~⁴ ~~adopted by the House and the Senate~~, or any law, rule, or other standard of conduct by a person~~lobbyist~~ subject to the provisions of rule 16.5 may be reprimanded, censured, prohibited from lobbying for all or any part of the legislative biennium during which the ~~violation occurred~~ recommended order is proposed, or have such other penalty imposed as may be appropriate. Such determination shall be made by a majority of the House, upon recommendation of the select committee so designated under Rule 16.5. Any prohibition or other limitation imposed by the House may be continued for up to a total of two years by a determination made by a majority of the House at or following the Organizational Session following the biennium during which such prohibition or other limitation was imposed.

Excused

Rep. Galvano

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 12:47 p.m., to reconvene at 10:00 a.m., Thursday, March 16, or upon call of the Chair.